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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN RE:

MONIQUE FOSTER

DEBTOR

CASE NO. 19-30239-bjh13

Preliminary hearing set at 1:30
p.m. on August 27, 2019.

Motion for Relief from the Automatic Stay

Speedway Loans, Inc., (Speedway Loans), in accordance with § 362(d) the Bankruptcy Code, Bankruptcy Rule 4001, and Local Bankruptcy Rule 4001.1, files its Motion for Relief from the Automatic Stay and respectfully states:

PURSUANT TO LOCAL BANKRUPTCY RULE 4001-1(b), A RESPONSE IS REQUIRED TO THIS MOTION, OR THE ALLEGATIONS IN THE MOTION MAY BE DEEMED ADMITTED, AND AN ORDER GRANTING THE RELIEF SOUGHT MAY BE ENTERED BY DEFAULT.

ANY RESPONSE SHALL BE IN WRITING AND FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AT U.S. BANKRUPTCY COURT, EARLE CABELL FEDERAL BUILDING, 1100

COMMERCE ST., RM. 1254, DALLAS, TEXAS 75242-1496, BEFORE CLOSE OF BUSINESS ON AUGUST 21, 2019, WHICH IS AT LEAST 14 DAYS FROM THE DATE OF SERVICE HEREOF. A COPY SHALL BE SERVED UPON COUNSEL FOR THE MOVING PARTY AND ANY TRUSTEE OR EXAMINER APPOINTED IN THE CASE. ANY RESPONSE SHALL INCLUDE A DETAILED AND COMPREHENSIVE STATEMENT AS TO HOW THE MOVANT CAN BE "ADEQUATELY PROTECTED" IF THE STAY IS TO BE CONTINUED.

Factual Background

1. The Debtor, Monique Foster (Debtor), filed a voluntary petition for relief under Chapter 13 of the Bankruptcy Code thereby commencing this case on January 25, 2019.

Speedway Loans's Claim Relating to the Truck

2. Speedway Loans is the owner and holder of a **Lender Disclosure and Promissory Note** signed by the Debtor Monique Foster, and dated September 20, 2018 (the Contract). A true and correct copy of the Contract is attached hereto as Exhibit A and incorporated by reference herein for all purposes.

3. Pursuant to the Contract, the Debtor re-financed the a 2014 Chevrolet G1500 Van, Vehicle Identification Number 1GBSGDC47E1114156 (the Vehicle). Speedway Loans financed the Debtor's purchase of the Vehicle.

4. The Debtor's indebtedness to Speedway Loans under the Contract is secured by a properly perfected first lien security interest in the Vehicle. A true and correct copy of a Texas Vehicle Record with Speedway Loans's lien noted thereon evidencing proper

perfection of Speedway Loans's security interest in the Vehicle is attached hereto as Exhibit B and is incorporated by reference herein for all purposes.

The Debtors Proposed Chapter 13 Plan

5. The Debtor's Chapter 13 Plan was filed on February 25, 2019 and amended on February 27, 2019, March 12, 2019, March 20, 2019, April 10, 2019, and June 4, 2019. The most recent amended Plan was denied confirmation and Debtor's case was dismissed on July 22, 2019 for failure to confirm her amended Chapter 13 Plan. It was reinstated by order entered on August 5, 2019.

The Payment Defaults

6. The Debtor failed to make her payments pre-petition. The Debtor is past-due in making the payments to Speedway Loans when due under the terms of the Contract for in the amount of \$2,917.89. The Debtor's next payment to Speedway Loans would have been due and payable under the terms of the February 19, 2019 in the amount of \$16,846.67.

7. Despite her failure to make her payments to Speedway Loans, the Debtor presumably retained possession of the Vehicle and continued to use it until it was recovered by the Movant during the time the case was in dismissed status.

8. Additionally, the Contract requires the Debtor to maintain and provide proof of physical damage insurance for the Vehicle during the term of the financing. Speedway

Loans, as of this filing Speedway has requested proof of such insurance but has not received such proof.

9. According to the Schedules to her voluntary petition, the Debtor owns and possesses no fewer than six (6) motor vehicles that appear to be passenger cars. Thus, the subject vehicle is not necessary to the Debtor's effective re-organization.

Request for Relief

10. In accordance with Bankruptcy Code § 362(d), Speedway Loans requests that the Court immediately terminate the automatic stay of Bankruptcy Code § 362(a) and Bankruptcy Rule 4001(a)(3) for all purposes as it applies to Speedway Loans and the Vehicle for cause, including, but not limited to, the following: (1) the Debtor has no equity in the Vehicle; (2) the Vehicle is not necessary to the Debtor's effective reorganization; and (3) the Debtor has failed to provide adequate protection for Speedway Loans's perfected security interest in the Vehicle.

11. Alternatively, and in accordance with Bankruptcy Code § 363(e), Speedway Loans requests that the Court prohibit or condition the Debtor's continued use of the Vehicle as is necessary to provide adequate protection for Speedway Loans's interest in the Vehicle.

WHEREFORE, PREMISES CONSIDERED, Speedway Loans, Inc., respectfully requests that, after notice and hearing, the Court grant this Motion for Relief from the

Automatic Stay; that the Court sign an order immediately terminating the automatic stay of Bankruptcy Code § 362(a) and Bankruptcy Rule 4001(a)(3) for all purposes as it applies to Speedway Loans and the Vehicle; or alternatively, that the Court sign an order prohibiting or conditioning the Debtor's continued use of the Vehicle as is necessary to provide adequate protection for Speedway Loans's interest in the Vehicle; and further relief as is just.

Respectfully submitted,

/s/ Robert J. Reagan
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Attorneys for Speedway Loans, Inc.

Certificate of Conference

I hereby certify that on August 7, 2019 at approximately 9:30 a.m., I contacted by telephone, the office of the Debtor's counsel of record, Ms. Linda Joy Littlefield. I specifically stated the relief requested in this Motion for Relief from the Automatic Stay and was informed that this motion would be opposed.

/s/ Robert J. Reagan
Robert J. Reagan

Certificate of Service

In accordance with Local Bankruptcy Rule 4001-1(a), I hereby certify that on August 7, 2019, a true and correct copy of the above and foregoing Motion for Relief from the Automatic Stay was served by electronic means in accordance with Bankruptcy Rules or by First Class United States Mail, postage prepaid, on each of the parties identified below.

/s/ Robert J. Reagan

Robert J. Reagan

Monique Foster, Debtor
1045 Western Hills Dr.
Ferris, Texas 75125

Trustee
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105 Decker Court, Ste. 1150
Irving, TX 75062

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